

LOCAL GOVERNMENT MODIFICATIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill modifies the required number of board members for a local district board of trustees.

Highlighted Provisions:

This bill:

► provides that a local district board of trustees is not required to have an odd number of members once the board reaches a certain size.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-302, as last amended by Laws of Utah 2016, Chapter 140

17B-2a-404, as last amended by Laws of Utah 2015, Chapter 258

17B-2a-604, as last amended by Laws of Utah 2010, Chapter 159

17B-2a-1106, as last amended by Laws of Utah 2016, Chapter 176

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **17B-1-302** is amended to read:



28 **17B-1-302. Board member qualifications -- Number of board members.**
29 (1) (a) Each member of a local district board of trustees shall be:
30 (i) a registered voter at the location of the member's residence; and
31 (ii) except as otherwise provided in this Subsection (1), a resident within:
32 (A) the boundaries of the local district; and
33 (B) if applicable, the boundaries of the division of the local district from which the
34 member is elected.
35 (b) (i) As used in this Subsection (1)(b):
36 (A) "Proportional number" means the number of members of a board of trustees that
37 bears, as close as mathematically possible, the same proportion to all members of the board that
38 the number of seasonally occupied homes bears to all residences within the district that receive
39 service from the district.
40 (B) "Seasonally occupied home" means a single-family residence:
41 (I) that is located within the local district;
42 (II) that receives service from the local district; and
43 (III) whose owner:
44 (Aa) does not reside permanently at the residence; and
45 (Bb) may occupy the residence on a temporary or seasonal basis.
46 (ii) If over 50% of the residences within a local district that receive service from the
47 local district are seasonally occupied homes, the requirement under Subsection (1)(a)(ii) is
48 replaced, for a proportional number of members of the board of trustees, with the requirement
49 that the member be an owner of land, or an agent or officer of the owner of land, that:
50 (A) receives service from the district; and
51 (B) is located within:
52 (I) the local district; and
53 (II) if applicable, the division from which the member is elected.
54 (c) For a board of trustees member in a basic local district that has within its
55 boundaries fewer than one residential dwelling unit per 10 acres of land, the requirement under
56 Subsection (1)(a)(ii) is replaced with the requirement that the member be an owner of land
57 within the local district that receives service from the district, or an agent or officer of the
58 owner.

59 (d) A member of the board of trustees of a service area described in Subsection
60 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is
61 not subject to the requirements described in Subsection (1)(a)(ii) if the elected official was
62 elected at large by the voters of the county.

63 (2) (a) Except as otherwise provided by statute, the number of members of each board
64 of trustees of a local district that has nine or fewer members shall ~~[be]~~ have an odd number of
65 members that is no less than three.

66 (b) If a board of trustees of a local district has more than nine members, the number of
67 members may be odd or even.

68 (3) For a newly created local district, the number of members of the initial board of
69 trustees shall be the number specified:

70 (a) for a local district whose creation was initiated by a petition under Subsection

71 17B-1-203(1)(a), (b), or (c), in the petition; or

72 (b) for a local district whose creation was initiated by a resolution under Subsection

73 17B-1-203(1)(d) or (e), in the resolution.

74 (4) (a) For an existing local district, the number of members of the board of trustees
75 may be changed by a two-thirds vote of the board of trustees.

76 (b) No change in the number of members of a board of trustees under Subsection (4)(a)
77 may:

78 (i) violate Subsection (2); or

79 (ii) serve to shorten the term of any member of the board.

80 Section 2. Section 17B-2a-404 is amended to read:

81 **17B-2a-404. Improvement district board of trustees.**

82 (1) As used in this section:

83 (a) "County district" means an improvement district that does not include within its
84 boundaries any territory of a municipality.

85 (b) "County member" means a member of a board of trustees of a county district.

86 (c) "Electric district" means an improvement district that was created for the purpose of
87 providing electric service.

88 (d) "Included municipality" means a municipality whose boundaries are entirely
89 contained within but do not coincide with the boundaries of an improvement district.

90 (e) "Municipal district" means an improvement district whose boundaries coincide
91 with the boundaries of a single municipality.

92 (f) "Regular district" means an improvement district that is not a county district,
93 electric district, or municipal district.

94 (g) "Remaining area" means the area of a regular district that:

95 (i) is outside the boundaries of an included municipality; and

96 (ii) includes the area of an included municipality whose legislative body elects, under
97 Subsection (5)(a)(ii), not to appoint a member to the board of trustees of the regular district.

98 (h) "Remaining area member" means a member of a board of trustees of a regular
99 district who is appointed, or, if applicable, elected to represent the remaining area of the
100 district.

101 (2) The legislative body of the municipality included within a municipal district may:

102 (a) elect, at the time of the creation of the district, to be the board of trustees of the
103 district; and

104 (b) adopt at any time a resolution providing for:

105 (i) the election of board of trustees members, as provided in Section 17B-1-306; or

106 (ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

107 (3) (a) The legislative body of a county whose unincorporated area is partly or
108 completely within a county district may:

109 (i) elect, at the time of the creation of the district, to be the board of trustees of the
110 district, even though a member of the legislative body of the county may not meet the
111 requirements of Subsection 17B-1-302(1)(a);

112 (ii) adopt at any time a resolution providing for:

113 (A) the election of board of trustees members, as provided in Section 17B-1-306; or

114 (B) except as provided in Subsection (4), the appointment of board of trustees
115 members, as provided in Section 17B-1-304; and

116 (iii) if the conditions of Subsection (3)(b) are met, appoint a member of the legislative
117 body of the county to the board of trustees, except that the legislative body of the county may
118 not appoint more than three members of the legislative body of the county to the board of
119 trustees.

120 (b) A legislative body of a county whose unincorporated area is partly or completely

121 within a county district may take an action under Subsection (3)(a)(iii) if:

122 (i) more than 35% of the residences within a county district that receive service from
123 the district are seasonally occupied homes, as defined in Subsection 17B-1-302(1)(b)(i)(B);

124 (ii) the board of trustees are appointed by the legislative body of the county; and

125 (iii) there are at least two appointed board members who meet the requirements of
126 Subsection 17B-1-302(1), except that a member of the legislative body of the county need not
127 satisfy the requirements of Subsection 17B-1-302(1).

128 (4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a
129 resolution providing for the appointment of board of trustees members as provided in
130 Subsection (3)(a)(ii)(B) at any time after the county district is governed by an elected board of
131 trustees unless:

132 (a) the elected board has ceased to function;

133 (b) the terms of all of the elected board members have expired without the board
134 having called an election; or

135 (c) the elected board of trustees unanimously adopts a resolution approving the change
136 from an elected to an appointed board.

137 (5) (a) (i) Except as provided in Subsection (5)(a)(ii), the legislative body of each
138 included municipality shall each appoint one member to the board of trustees of a regular
139 district.

140 (ii) The legislative body of an included municipality may elect not to appoint a member
141 to the board under Subsection (5)(a)(i).

142 (b) Except as provided in Subsection (6), the legislative body of each county whose
143 boundaries include a remaining area shall appoint all other members to the board of trustees of
144 a regular district.

145 (6) Notwithstanding Subsection (3), each remaining area member of a regular district
146 and each county member of a county district shall be elected, as provided in Section
147 17B-1-306, if:

148 (a) the petition or resolution initiating the creation of the district provides for remaining
149 area or county members to be elected;

150 (b) the district holds an election to approve the district's issuance of bonds;

151 (c) for a regular district, an included municipality elects, under Subsection (5)(a)(ii),

152 not to appoint a member to the board of trustees; or

153 (d) (i) at least 90 days before the municipal general election or regular general election,
154 as applicable, a petition is filed with the district's board of trustees requesting remaining area
155 members or county members, as the case may be, to be elected; and

156 (ii) the petition is signed by registered voters within the remaining area or county
157 district, as the case may be, equal in number to at least 10% of the number of registered voters
158 within the remaining area or county district, respectively, who voted in the last gubernatorial
159 election.

160 (7) Subject to Section 17B-1-302, the number of members of a board of trustees of a
161 regular district shall be:

162 (a) the number of included municipalities within the district, if:

163 (i) the number of included municipalities is greater than nine or is an odd number that
164 is not greater than nine; and

165 (ii) the district does not include a remaining area;

166 (b) the number of included municipalities plus one, if the number of included
167 municipalities within the district is an even number that is not greater than nine; and

168 (c) the number of included municipalities plus two, if:

169 (i) the number of included municipalities is an odd number that is less than nine; and

170 (ii) the district includes a remaining area.

171 (8) (a) Except as provided in Subsection (8)(b), each remaining area member of the
172 board of trustees of a regular district shall reside within the remaining area.

173 (b) Notwithstanding Subsection (8)(a) and subject to Subsection (8)(c), each remaining
174 area member shall be chosen from the district at large if:

175 (i) the population of the remaining area is less than 5% of the total district population;

176 or

177 (ii) (A) the population of the remaining area is less than 50% of the total district
178 population; and

179 (B) the majority of the members of the board of trustees are remaining area members.

180 (c) Application of Subsection (8)(b) may not prematurely shorten the term of any
181 remaining area member serving the remaining area member's elected or appointed term on May
182 11, 2010.

183 (9) If the election of remaining area or county members of the board of trustees is
184 required because of a bond election, as provided in Subsection (6)(b):

185 (a) a person may file a declaration of candidacy if:

186 (i) the person resides within:

187 (A) the remaining area, for a regular district; or

188 (B) the county district, for a county district; and

189 (ii) otherwise qualifies as a candidate;

190 (b) the board of trustees shall, if required, provide a ballot separate from the bond
191 election ballot, containing the names of candidates and blanks in which a voter may write
192 additional names; and

193 (c) the election shall otherwise be governed by Title 20A, Election Code.

194 (10) (a) (i) This Subsection (10) applies to the board of trustees members of an electric
195 district.

196 (ii) Subsections (2) through (9) do not apply to an electric district.

197 (b) The legislative body of the county in which an electric district is located may
198 appoint the initial board of trustees of the electric district as provided in Section [17B-1-304](#).

199 (c) After the initial board of trustees is appointed as provided in Subsection (10)(b),
200 each member of the board of trustees of an electric district shall be elected by persons using
201 electricity from and within the district.

202 (d) Each member of the board of trustees of an electric district shall be a user of
203 electricity from the district and, if applicable, the division of the district from which elected.

204 (e) The board of trustees of an electric district may be elected from geographic
205 divisions within the district.

206 (f) A municipality within an electric district is not entitled to automatic representation
207 on the board of trustees.

208 Section 3. Section **17B-2a-604** is amended to read:

209 **17B-2a-604. Metropolitan water district board of trustees.**

210 (1) Members of the board of trustees of a metropolitan water district shall be:

211 (a) elected in accordance with:

212 (i) the petition or resolution that initiated the process of creating the metropolitan water
213 district; and

214 (ii) Section 17B-1-306;
215 (b) appointed in accordance with Subsection (2); or
216 (c) elected under Subsection (3)(a).
217 (2) (a) This Subsection (2) shall apply to an appointed board of trustees of a
218 metropolitan water district.
219 (b) If a district contains the area of a single municipality:
220 (i) the legislative body of that municipality shall appoint each member of the board of
221 trustees; and
222 (ii) one member shall be the officer with responsibility over the municipality's water
223 supply and distribution system, if the system is municipally owned.
224 (c) If a district contains some or all of the retail water service area of more than one
225 municipality:
226 (i) the legislative body of each municipality shall appoint the number of members for
227 that municipality as determined under Subsection (2)(c)(ii);
228 (ii) subject to Subsection (2)(c)(iii), the number of members appointed by each
229 municipality shall be determined:
230 (A) by agreement between the metropolitan water district and the municipalities,
231 subject to ~~[the maximum stated in]~~ Subsection 17B-1-302(2); or
232 (B) as provided in Chapter 1, Part 3, Board of Trustees; and
233 (iii) at least one member shall be appointed by each municipality.
234 (d) Each trustee shall be appointed without regard to partisan political affiliations from
235 among citizens of the highest integrity, attainment, competence, and standing in the
236 community.
237 (3) (a) Members of the board of trustees of a metropolitan water district shall be
238 elected in accordance with Section 17B-1-306, if, subject to Subsection (3)(b):
239 (i) three-fourths of all members of the board of trustees of the metropolitan water
240 district vote in favor of changing to an elected board; and
241 (ii) the legislative body of each municipality that appoints a member to the board of
242 trustees adopts a resolution approving the change to an elected board.
243 (b) A change to an elected board of trustees under Subsection (3)(a) may not shorten
244 the term of any member of the board of trustees serving at the time of the change.

- 245 (4) A member of the board of trustees of a metropolitan water district shall be:
- 246 (a) a registered voter;
- 247 (b) a property taxpayer; and
- 248 (c) a resident of:
- 249 (i) the metropolitan water district; and
- 250 (ii) the retail water service area of the municipality that:
- 251 (A) elects the member; or
- 252 (B) the member is appointed to represent.

253 (5) (a) Except as provided in Subsection (7), a member shall immediately forfeit the
 254 member's seat on the board of trustees if the member becomes elected or appointed to office in
 255 or becomes an employee of the municipality whose legislative body appointed the member
 256 under Subsection (2).

257 (b) The position of the member described in Subsection (5)(a) is vacant until filled as
 258 provided in Section 17B-1-304.

259 (6) Except as provided in Subsection (7), the term of office of each member of the
 260 board of trustees is as provided in Section 17B-1-303.

261 (7) Subsections (4), (5)(a), and (6) do not apply to a member who is a member under
 262 Subsection (2)(b)(ii).

263 Section 4. Section 17B-2a-1106 is amended to read:

264 **17B-2a-1106. Municipal services district board of trustees -- Governance.**

265 (1) Except as provided in Subsection (2), and notwithstanding any other provision of
 266 law regarding the membership of a local district board of trustees, the initial board of trustees
 267 of a municipal services district shall consist of the county legislative body.

268 (2) (a) Notwithstanding any provision of law regarding the membership of a local
 269 district board of trustees or the governance of a local district, and, except as provided in
 270 Subsection (3), if a municipal services district is created in a county of the first class with the
 271 county executive-council form of government, the initial governance of the municipal services
 272 district is as follows:

- 273 (i) subject to Subsection (2)(b), the county council is the municipal services district
- 274 board of trustees; and
- 275 (ii) subject to Subsection (2)(c), the county executive is the executive of the municipal

276 services district.

277 (b) Notwithstanding any other provision of law, the board of trustees of a municipal
278 services district described in Subsection (2)(a) shall:

279 (i) act as the legislative body of the district; and

280 (ii) exercise legislative branch powers and responsibilities established for county
281 legislative bodies in:

282 (A) Title 17, Counties; and

283 (B) an optional plan, as defined in Section 17-52-101, adopted for a county
284 executive-council form of county government as described in Section 17-52-504.

285 (c) Notwithstanding any other provision of law, in a municipal services district
286 described in Subsection (2)(a), the executive of the district shall:

287 (i) act as the executive of the district;

288 (ii) nominate a general manager of the municipal services district, subject to the advice
289 and consent of the board of trustees; and

290 (iii) exercise executive branch powers and responsibilities established for a county
291 executive in:

292 (A) Title 17, Counties; and

293 (B) an optional plan, as defined in Section 17-52-101, adopted for a county
294 executive-council form of county government as described in Section 17-52-504.

295 (3) (a) If, after the initial creation of a municipal services district, an area within the
296 district is incorporated as a municipality as defined in Section 10-1-104 and the area is not
297 withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area
298 within the municipality is annexed into the municipal services district in accordance with
299 Section 17B-2a-1103, the district's board of trustees shall be as follows:

300 (i) subject to Subsection (3)(b), a member of that municipality's governing body;

301 (ii) subject to Subsection (4), two members of the county council of the county in
302 which the municipal services district is located; and

303 (iii) except as provided in Subsection 17B-1-302(2), the total number of board
304 members shall be an odd number.

305 (b) A member described in Subsection (3)(a)(i) shall be:

306 (i) for a municipality other than a metro township, designated by the municipal

307 legislative body; and

308 (ii) for a metro township, the chair of the metro township.

309 (c) A member of the board of trustees has the powers and duties described in
310 Subsection (2)(b).

311 (d) The county executive is the executive and has the powers and duties as described in
312 Subsection (2)(c).

313 (4) (a) The number of county council members may be increased or decreased to meet
314 the membership requirements of Subsection (3)(a)(iii) but may not be less than one.

315 (b) The number of county council members described in Subsection (3)(a)(ii) does not
316 include the county mayor.

317 (5) For a board of trustees described in Subsection (3), each board member's vote is
318 weighted using the proportion of the municipal services district population that resides:

319 (a) for each member described in Subsection (3)(a)(i), within that member's
320 municipality; and

321 (b) for each member described in Subsection (3)(a)(ii), within the unincorporated
322 county, with the members' weighted vote divided evenly if there is more than one member on
323 the board described in Subsection (3)(a)(ii).

324 (6) The board may adopt a resolution providing for future board members to be
325 appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

326 (7) (a) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of
327 trustees may adopt a resolution to determine the internal governance of the board.

328 (b) A resolution adopted under Subsection (7)(a) may not alter or impair the board of
329 trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's
330 duties, powers, or responsibilities described in Subsection (2)(c).

331 (8) The municipal services district and the county may enter into an agreement for the
332 provision of legal services to the municipal services district.